

IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

International Application No. : PCT/JP2004/009436
International Filing Date : July 2, 2004
U.S. Serial No. : 10/562,833
Deposit Date U.S. Nat'l Phase : December 30, 2005
Priority Date(s) Claimed : July 4, 2003
Applicant(s) : Toshiya FUJISATO et al.
Title: METHOD OF CELL INJECTION INTO BIOTISSUE AND APPARATUS THEREOF

REQUEST FOR WITHDRAWAL OF IMPROPER NOTICE OF ABANDONMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The Notice of Abandonment dated November 20, 2008 was improperly issued.

The PTO alleges that the Missing Requirements issued on July 10, 2006 was not properly responded to. As a result, the Notification of Defective Response of April 2, 2007 was issued. Applicants responded to this on May 2, 2007 pointing out that the declaration which was submitted on September 6, 2006 in response to the Missing Requirements met the requirements set forth in the latter notice of July 10, 2006 for a declaration (identifying the application by the international application and international filing date).

Being filed herewith is a PTO filing receipt card showing that on September 6, 2006, Applicants filed a paper entitled "Declaration for Utility or Design Patent Application (37 CFR 1.63)" [noted on the receipt as, "Missing Parts Response w/Decl."].

Being filed herewith is yet another copy of this declaration. It has three pages, the latter two of which bear the inventors' signatures and the first of which bears the requisite identification of the application by the international application number (PCT/JP2004/009436) and international filing date (July 2, 2004). Thus, the PTO's repeated allegation that a proper declaration bearing the requisite identification of the PCT application was never filed is unambiguously incorrect.

It appears that, perhaps, the PTO is confused by the fact that on September 6, 2006, applicants also filed three Power of Attorney and Correspondence Address Indication forms, each one signed by one of the inventors. While it is true that these particular forms do not identify the

international application number, this is irrelevant to satisfaction of the requirements for the submission of a proper declaration. Indeed, the filing of a Power of Attorney is not at all a requirement for completion of a patent application.

Should the PTO continue with its position that the filing requirements have not been met, applicants would appreciate the courtesy of a telephone call for an explanation since it appears to the undersigned that the PTO is in error. If a telephone call is not possible, then a written explanation is requested so that this application can proceed to examination.

Respectfully submitted,

/Anthony J. Zelano/

Anthony J. Zelano, Reg. No. 27,969
Attorney for Applicants

MILLEN, WHITE, ZELANO
& BRANIGAN, P.C.
Arlington Courthouse Plaza 1
2200 Clarendon Blvd, Suite 1400
Arlington, Virginia 22201
Telephone: (703)243-6333
Facsimile: (703) 243-6410

Attorney Docket No.: AKA-0292
Date: January 21, 2009